

LAW OFFICES OF MARC J. WODIN

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Attorneys for Defendant CONSECO SENIOR HEALTH INSURANCE COMPANY

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

PAMELA THOMPSON, Individually)
and as Personal)
Representative of CHARLES)
THOMPSON, Deceased,)

Plaintiff,)

vs.)

CONSECO SENIOR HEALTH)
INSURANCE COMPANY, a)
Pennsylvania corporation,)
DOES 1 through XX)

Defendant(s).)

CASE NO.: C 07-05437 PJH
[Sonoma County Superior
Court Case No. 241544]

**DEFENDANT'S CERTIFICATION
THAT PLAINTIFF AND HER
ATTORNEYS HAVE NOT DELIVERED
AGREED UPON CONSIDERATION
FOR SETTLEMENT; REQUEST TO
VACATE DISMISSAL AND RESTORE
CASE TO CALENDAR;
DECLARATION OF MARC J. WODIN**

Assigned to the Honorable
Phyllis J. Hamilton

**TO: THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA AND TO THE INTERESTED PARTIES AND THEIR ATTORNEYS OF
RECORD:**

Pursuant to the Order of Dismissal dated June 5, 2008,
defendant Consec Senior Health Insurance Company hereby
certifies to this court that plaintiff and her attorneys have not
delivered agreed upon consideration for the settlement reached in

1 this case at the time of the mediation on May 29, 2008; to wit,
2 plaintiff, and her attorneys have failed and refused to execute
3 the release and settlement agreement, which has been provided to
4 them, pursuant to the settlement reached at the time of the
5 mediation.

6 Accordingly, pursuant to said order, defendant requests that
7 this court vacate the dismissal entered on June 5, 2008, and
8 restore this matter to the calendar.

9
10 DATED: August 4, 2008

LAW OFFICES OF MARC J. WODIN

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12 By /s/ Marc J. Wodin
13 MARC J. WODIN
14 Attorneys for Defendant CONSECO
15 SENIOR HEALTH INSURANCE COMPANY
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DECLARATION OF MARC J. WODIN

I, MARC J. WODIN DECLARE:

1. The facts set forth herein are personally known to declarant, who has firsthand knowledge of the same, and if called as a witness, said declarant could and would competently testify thereto under oath.

2. I am an attorney duly admitted to practice before this court, and I am a principal in the Law Offices of Marc J. Wodin, attorneys of record for defendant Conseco Health Insurance Company in the above entitled action.

3. This matter was mediated on May 29, 2008, before mediator John Koeppel. A settlement was reached. On June 2, 2008, the mediator filed a Certification of ADR Session, certifying that the case settled at the mediation.

4. One of the terms of consideration stated in the settlement document prepared at the time of the mediation, and signed by all parties and their attorneys, was that defendant would provide a release and settlement agreement, which would be executed by plaintiff and her attorneys.

5. I thereafter provided such a release and settlement agreement to plaintiff's attorneys. Plaintiff and her attorneys

1 have failed and refused to execute the release and settlement
2 agreement.

3
4 6. Wherefore, pursuant to this court's order of June 5,
5 2008, defendant requests that this court vacate the dismissal
6 entered on June 5, 2008, and restore this matter to the calendar.

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8 I declare under penalty of perjury under the laws of the
9 United States of America that the foregoing is true and correct.

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11 Executed this 4th day of August, 2008, at Calabasas,
12 California.

13 /s/ Marc J. Wodin
14 MARC J. WODIN
15 DECLARANT
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